

REMARKS

I. Status of the Claims

Upon entry of the amendments herein, claims 1, 2, 4-23, 25-66, 74-85, 104, 138-140, 149, and 150 are pending in this application. Claims 1, 2, 4-23, 31, 45-49, 51-53, 58, 66, 84, 85, 149, and 150 are under examination, and claims 25-30, 32-44, 50, 54-57, 59-65, 74-83, 104, and 138-140 are withdrawn by the Office as directed to non-elected subject matter. Applicant previously cancelled duplicative claims 5 and 6, and claims 105-137 and 141-147. Applicant now cancels claims 3, 24, 67-73, 86-103, and 148.

Claims 1, 15, 16, and 149 are amended. Claim 1 is amended to include the subject matter of claim 3. Claims 15, 16, and 149 are amended to correct dependencies. Accordingly, no new matter is added.

Applicant, acknowledges, with appreciation, the withdrawal the rejection under 35 U.S.C. § 112, second paragraph.

II. Rejection Under 35 U.S.C. § 102(a)

The Office rejects claims 1, 2, 4-14, 17, 18, 21, 23, 31, 45-49, 51-53, 58, 66, 67, 84, 85, and 150 under 35 U.S.C. § 102(a) as allegedly anticipated by U.S. Publication No. 2003/0129117 to Mills ("the '117 application"). Applicant respectfully disagrees and traverses the rejection.

The '117 application published on July 10, 2003, to Randell L. Mills, the same inventor of the present application. The effective priority dates of the present application are October 24, 2003 (the filing date of U.S. Provisional Application No.

60/513,582), November 12, 2003 (the filing date of U.S. Provisional Application No. 60/518,626), and February 23, 2004 (the filing date of U.S. Provisional Application No. 60/546,174). Thus, the '117 application does not constitute prior art under § 102(a) as disclosure "known or used **by others** in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent." 35 U.S.C. § 102(a). (Emphasis added) Because the '117 application and the instant application list the same inventive entity (Randell Mills), the '117 application does not qualify as prior art under 35 U.S.C. § 102(a). Applicant respectfully submits that this rejection is improper and requests that it be withdrawn.

III. Rejection Under 35 U.S.C. § 102(b)

The Office rejects claims 1, 2, 4-6, 7-14, 19, 21, 23, 31, 48, 49, 51-53, 58, 66, 84, 85, and 150 as allegedly anticipated by U.S. Patent No. 3,789,319 to Rhodes ("Rhodes"). Office Action at page 2. Applicant respectfully disagrees and traverses the rejection.

Without agreeing to the Examiner's assertions of anticipation, and to advance prosecution, Applicant has amended claim 1 to include the subject matter of claim 3, i.e., "wherein the power source forms excited vibration-rotational levels of $H_2(1/p)$ and lasing occurs with a stimulated transition from at least one vibration-rotational level to at least another lower-energy-level other than one with a significant Boltzmann population at the cell neutral-gas temperature wherein the vibration-rotational levels of $H_2(1/p)$ comprise the inverted population."

The Office acknowledges that the subject matter of claim 3 is not taught in the prior art, including Rhodes, when it states that claim 3 "would be allowable if rewritten in dependent form including all of the limitations of the base claim and any intervening claims." Office Action at page 3. As claim 1 now contains this allowable subject matter, this rejection is deemed moot. Applicant respectfully requests that the Office withdraw the rejection of claim 1, as well as the rejection of claims dependent therefrom. Applicant further requests that the Office withdraw the objections to claims 3, 15, 16, 20, 22, and 149 accordingly.

IV. Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests that the Office withdraw the rejections under §§ 102(a) and 102(b). Applicant further requests that the Office rejoin the withdrawn claims 25-30, 32-44, 50, 54-57, 59-65, 74-83, 104, and 138-140, which are also directed to a laser, and grant the timely allowance of all of pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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/Louis Troilo/

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